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FOR THE PUBLIC RECORD

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Re: Comments on Climate Action Team reports: Part I: General, and Part II: Cap and Trade

Dear Climate Action Team,

Thank you for accepting these Comments on the Climate Action Team reports with special emphasis on the Cap and trade report. These comments are divided into two sections: overall notes on the Climate Action Team's reports, and comments on the Cap and Trade report.

Community Clean Water Institute (CCWI) has worked on climate protection programs in Northern California since 2001. We work alongside the Climate Protection Campaign, and have consulted with several government agencies including the Sonoma County Waste Management Agency and the Bay Area Air Quality Management District. More information on CCWI's programs is online at www.ccwi.org.

Part I: Overall Climate Action Team Notes:

The State's approach is very important, considering the impact of AB1493, when we set California policy, it has the potential to set national policy. Other states do not have the experts, resources, or politics to put a large effort behind doing something else, and Federal policy is a vacuum which California policy can fill.

The following are suggestions for State Actions to achieve the Governor's aggressive greenhouse gas (GHG) reduction goals.

1) Help local jurisdictions

The State should include assistance to local jurisdictions which have set GHG emission reduction goals. The State should study how to help local jurisdictions, especially those with GHG reduction targets, and develop incentives to jurisdictions with bold targets. Australia has done this in its participation in ICLEI's Cities for Climate Protection Program. They provide grants and money for jurisdictions which achieve climate protection milestones.

Every city in Sonoma County has adopted a GHG reduction target, both for internal operations, and community-wide. The targets are very ambitious. The State should look at how it can

support cities which take such action. As of Winter 2005, 20 local jurisdictions in the Bay Area participate in *Cities for Climate Protection*, an international program led by *ICLEI – Local Governments for Sustainability* whose U.S. headquarters are located in Berkeley.

Having local jurisdictions significantly reduce criteria air pollutants and GHG emissions would solidify the California as a national leader and produce significant air quality benefits as well. The State should encourage local governments to join CCP.

Will the State devote substantial resources to assisting local jurisdictions in achieving their GHG reduction goals? Is support for local initiatives part of the State strategy for GHG reduction?

What about the local water agencies and districts? The Marin Municipal Water District and the Sonoma County Water Agency have passed resolutions to quantify and reduce their greenhouse gas emissions. This follows the framework of ICLEI's Cities for Climate Protection (www.iclei.org/us). They were the first water districts in the country to pass resolutions directly focused on climate change. The State should consider how it can support the efforts of local water districts.

And regional Air Quality Management Districts? On June 1, 2005 the Bay Area Air Quality Management District Board of Directors adopted a resolution establishing a Climate Protection Program and acknowledging the link between climate protection and programs to reduce air pollution in the Bay Area. The State should consider how it can support the efforts of local air districts. Local air districts can also play an important role in mandatory reporting of GHG emissions by stationary facilities. Perhaps through coordination with the Climate Action Registry. Air districts have the technical expertise to assist with inventories and other reporting activities.

2) Create a Policy framework

Strategies to address climate change statewide and achieve the Governor's GHG reduction goals should be analyzed in a policy framework. The following is an excerpt from "Report on the Integration of Air Quality Management and Climate Protection" by the Climate Protection Campaign and Community Clean Water Institute (June 2005) (online at www.climateprotectioncampaign.org or www.ccwai.org/issues/climate.htm).

"Policy can be divided into four categories. The first, **voluntary or good citizen**, represents an approach that many agencies have incorporated over many decades. The Air District's Spare the Air Program is an example of promoting voluntary practices and cooperative relationships. The second, **compliance**, refers to the command-and-control approach of traditional regulatory agencies. The third, **market transformation**, denotes a permanent change in the operation of the market, or at least one that lasts beyond the life of market interventions. It has been defined as "a reduction in market barriers resulting from market intervention, as evidenced by a set of market effects, that lasts after the intervention has been withdrawn, reduced or changed." The fourth, **changing the rules**, refers to new institutions that create new property rights and their own incentives. An example is the Sky Trust, invented by Peter Barnes, and described in his book "Who Owns the Sky?"

We encourage the State to continue to analyze policies using this or a similar framework as it moves forward in developing a GHG reduction plan.

3) GHG impacts in CEQA

Make GHGs part of CEQA. This would require action by the State Legislature, but is feasible. It would encourage an analysis of the GHG impacts of development projects statewide and would institutionalize the mandatory emissions quantification that the Climate Action Team has stated is a prerequisite for any cap and trade system and most long term emissions reduction programs.

4) Use GHGs as a metric for more programs.

From voluntary programs to regulatory programs, GHGs can be collected alongside other indicators. GHG intensity as related to kilowatt hour would be important for the California Energy Commission and PUC. GHGs could be useful indicators for the DMV and other state agencies. Even Gross Domestic Product (GDP) could be augmented by a measure of GDP per unit of GHG.

5) Public good charge for transportation- good

We commend the Climate Action Team for its endorsement of a public goods charge for transportation. Public goods charges are the right direction. However, the current public goods charge on electricity is for efficiency, not climate protection. There is an important distinction between the two. Climate protection looks at reduction in GHGs, and this may also produce a decrease in kwh. But it may also lead to more systemic measures.

In addition, we recommend using future public goods charge money for Community Choice Aggregation feasibility studies.

6) Green scissors

We encourage the Climate Action Team to continue to look at additional revenue streams from surcharges on inefficiencies to pay for increased efficiencies across the board. Taxing or levying fees on environmental "bads" to pay for restoration, conservation, efficiency and environmental "goods" is known as a "green scissors" approach to budget making. There is great potential in this area.

Note: In our work in Sonoma County, we have noticed a phenomenon we refer to as "Death by success." An example is when the Sonoma County Waste Management Agency successfully diverts 50% of its waste stream out of the landfill, then loses revenue stream, and cannot pursue projects allowing it to continue to divert more. The same happens when a water utility install efficiency measures, sells less water, and loses revenue. The State should develop strategies to prevent "Death by Success."

7) Improvements to the Climate Registry: The Climate Registry is currently set up for large emitters, but there is no easier program for small emitters. There are probably thousands of small emitters which want to participate. The Registry should develop web based software, and a stepped approach to allow small emitters to go up the learning curve without investing thousands of dollars up front.

8) Can the State direct the PUC to make it easier for local jurisdictions to implement Community Choice Aggregation, with special incentives for high RPS? We believe Community Choice Aggregation containing local Renewable Portfolio Standards could be one of the most powerful tools in reducing GHGs.

9) **Water and Climate- Encourage Local Actions-** The Department of Water Resources is working on a report on Incorporating Climate Change into Management of California's Water Resources. CCWI and the Climate Protection Campaign are working with Marin and Sonoma County local governments and water agencies, and wanted to make sure you knew of some activities taken by our local water agencies regarding climate change.

The Marin Municipal Water District (MMWD) has passed a resolution to quantify and reduce their greenhouse gas emissions. This follows the framework of ICLEI's Cities for Climate Protection (www.iclei.org/us). They were the first water district in the country to pass a resolution directly focused on climate change.

The Sonoma County Water Agency passed a similar resolution in 2005, and now has an Energy Policy which specifically targets GHG reductions. Their energy policy is online at <http://www.scwa.ca.gov/>.

We believe that every water agency and district in the State could pass similar resolutions, addressing climate change through local energy policies, and placing climate change as a priority on each of their Boards. The cumulative impact of such local actions could equal or exceed actions taken in Sacramento.

I would be happy to talk more about this with you, or provide you additional names and contacts for people at those agencies for more information.

10) **Forests-** Forests play an important role in climate protection and carbon sequestration. General advice is to increase recycled paper in the State. Green building programs can reduce the need for virgin wood products in construction. The State can encourage reforestation, tell the State Board of Forestry to take action to promote sustainable forestry, ban clearcutting, enforce higher restocking ratios, and incentivize better forest practices.

11) **Regarding the economic analysis:** It is exciting news that the proposed climate protection strategies can be accomplished without significant harm to the economy. **Please forward this information to Washington DC.**

12) Regarding Cap and Trade:

We encourage the State to issue Individual Emissions Entitlements (emissions rights) directly to the State's citizenry. Emissions are a human right, and allowances should be allocated to individuals. The cap should be based on emissions relating to consumption in California rather than production, though producers would purchase the rights on the open market.

The California cap-and-trade should be designed as a template for cap and trade programs in other US states, but also other countries including Canada, the EU, Australia, and equally importantly, China and India. If California is the model a cap and trade system for China and India, California should start from the basis of GHGs as a global human right, and provide GHG emissions credits to individuals. Individuals then sell their rights (permit/ allocation) to a broker (at their bank?), which can turn around and sell it on the market to regulated GHG emitters (utilities).

We support mandated facility level emission reporting. The Regional Air Quality Management Districts are in an important place to track such emissions. They already collect emissions data for stationary sources. The Bay Area Air Quality Management District recently formed a Climate

Protection Program. A report commissioned by the Bay Area Air Quality Management District, "Report on the Integration of Air Quality Management and Climate Protection" by the Climate Protection Campaign and Community Clean Water Institute (June 2005) (online at www.climateprotectioncampaign.org or www.ccwi.org/issues.climate.htm) describes additional efforts at Air Districts, and the Air District's website describes some of their new initiatives in climate protection.

For landfills, in Sonoma County, the County Landfill produces a decrease in GHG emissions, according to the ICLEI GHG inventory protocols. In fact, by economic analyses, the landfill reduces more GHGs at a cheaper price than any other project in the County. It is more cost effective than the County's natural gas buses, or the purchase of hybrid fleet vehicles. The landfill is a hero of climate protection. This is mainly because methane is captured and turned into fuel for generators, creating a source of "green" electricity. This methane capture creates revenue for the County Waste Management Agency. All landfills should capture their methane, thereby reducing GHGs and increasing their revenue. However, it is unclear if a cap and trade system will produce that result, or if it should be done by direct legislative or regulatory action.

The cement industry should be included in the cap. Industry practices which reduce GHGs should be encouraged through the economic incentive of a cap and trade system. The cap should not be limited to just 5 industrial sectors, but should contain all fossil fuels.

The mobile source sector can be approached through vehicle license fees tied to GHG emissions. Proceeds from those fees should be dedicated towards GHG reduction efforts from the mobile source sector. CARB should continue to make rules along the lines of AB1493 which will address the sector as a whole. We refer to this as "under the hood" regulations. Demand shifting can take place with public outreach and marketing campaigns similar to those discouraging smoking but focused on GHG emissions from vehicles. The State still needs a high speed rail, and regions of California, including my region of Sonoma County desperately need alternatives to highways and single occupancy vehicles. There will be a regional train on our 2006 ballot which I support. We support transportation public goods fees, including a Sky Trust model. We also support the vehicle sales tax based on GHGs.

The section below includes more specific comments on a future Cap and Trade system.

Part II: Cap and trade: Individual Emissions Entitlements

The following are comments on the Cap and Trade Report.

Our primary recommendation is to make the initial allocation directly to citizens as Individual Emissions Entitlements. We encourage the State to issue emissions rights directly to the State's citizenry.

Here is some of the reasoning behind a long term climate stabilization plan as envisioned by groups in Europe such as the Foundation for the Economics of Sustainability (FEASTA, based in Dublin Ireland). GHG emissions are a human right, since they are a byproduct of economic activity, and economic activity produces wealth. In a carbon-constrained world, GHG emission limits may define the limits of economic activity at least during a transition period away from fossil fuels and toward renewable energy sources and low-carbon economies. An equitable

solution is to allocate GHG emissions rights among the population on a per capita basis, and letting them sell their emissions rights to brokers or banks, which would sell them on the open market to large scale power plants, utilities and other polluters (emitters). One long term goal of climate stabilization is to aim for a global carbon budget defined by an ecologically sustainable limit of global GHGs of 450 ppm CO₂ in the atmosphere. The Global Commons Institute of England has developed a framework for achieving this goal through a concept called Contraction and Convergence. The idea is that the end result is per capita equity in GHG emissions. We have to start where we are now, and move toward that goal. We can use a cap and trade system which allocates emissions to individuals to achieve that goal, thereby solving questions of environmental justice, social equity, and economic fairness.

Although this is a different focus than the proposed cap and trade design, there are many good reasons to allocate emissions directly to people rather than to polluters.

Individual emissions entitlements would provide an income to people as the price of GHGs increase. It would return the "scarcity rent" to the citizens rather than to the polluting industries.

Allocation to individuals can accommodate both stationary sources and mobile sources (transportation), since the regulated industries would then participate in a market after the individual's allocation enters the market.

The distribution to individuals acknowledges that climate protection deals with demand, not supply. Air quality management deals with stationary sources (smokestacks) whereas climate protection deals with electricity demand (light switches).

The short term California GHG cap cannot achieve a cap of 450 ppm by itself, but could be designed to link up to other caps, such as RGGI and the European ETS. Per capita equity acknowledges the human rights aspect of GHGs and human development. After linking up to other global caps, countries can participate together in what is known as "contraction and convergence" whereby 1st world countries and 3rd world countries converge to per capita equity and then contract together.

We agree with Redefining Progress that the cap should be based on emissions relating to consumption in California rather than production in California. This is another reason to initially allocate emissions allowances to individuals. The Sky Trust, advocated by author Peter Barnes and others, also promotes the idea of providing the added income stream from the increasing prices directly to the citizens, avoiding the windfall profits situation. Barnes notes that the benefits of "scarcity rent" are then divided among the citizens of the State, instead of going to the polluters. Scarcity rent is the increase in price brought about by a scarcity, in this case, of emissions allowances. Windfall profits, such as the billions of dollars in oil revenues seen after Hurricane Katrina, would be distributed to the State's population, rather than going to the emitters of pollution. When the rising prices of carbon goes back to the people, it will help them to deal with the transition costs away from high carbon energy sources.

We agree with Peter Barnes' critique of the RGGI proposal to create a cap-and-trade program that would begin with the states issuing free pollution permits to historic polluters. Barnes says, "The polluters could use these permits themselves or sell them for cash to other utilities or speculators. The problem is that it's a huge giveaway of a common asset 'the atmosphere' to a few private power companies. Its the equivalent of giving the airwaves to private broadcasters for free, or selling timber from National Forests at below-market prices. It will enrich the utilities and their shareholders at the expense of northeast consumers, who'll pay more money for less energy in the

future. The public trust doctrine holds that the people's property (for which the state is trustee) can't be given away without fair compensation."

Barnes describes the Alaska Permanent Fund as an alternative approach: "In the 1970s, Alaska leased land on Prudhoe Bay to several oil companies. It then divided the proceeds into two parts: one part went to the state government, the other into a separate fund which would pay dividends to all Alaskans. Originally, the dividends paid to each Alaskan would depend on how long they had lived in the state. Old-timers would receive more than newcomers. By 8 to 1, the Supreme Court required Alaska to pay dividends on a one person, one share basis. (*Zobel v. Williams*, 457 U.S. 55, 1982.) When a state distributes benefits unequally, the distinctions it makes are subject to scrutiny under the Equal Protection Clause of the Fourteenth Amendment."

The Center for Resource Solutions' idea to reserve a certain number of allowances to renewable energy providers makes sense also. However, direct allocation should still be to individuals, with renewable energy providers given some incentive, or advantage in the emission allowance market. We also feel that someone who is off the grid, or generating their own electricity should receive a net gain in income through the allocation.

Frequency of allocations: We believe that an annual or bi-annual allocation makes sense, with a "safety valve" built in in case of abnormal market volatility. There should also be rules to prevent and punish "market gaming" such as happened in California's energy deregulation.

Even though the allocation will go to individuals first, the allowances will be cashed in, and then sold on the market. The industries under the cap will be allowance purchasers in the market. **For the electricity sector, the emphasis should be on Load Serving Entities (LSEs).** The cap should be placed on the load-serving entities in order to ensure comprehensive coverage of each sector and to account for the pollution associated with California's imported electricity. As with GHG emissions inventories, the emission is counted at the demand side (lightswitches), not the supply side (smokestacks).

For the electricity sector, the LSE approach seems to provide additional benefits for Californians. LSEs should be able to pass on their costs to power producers, creating a financial incentive or advantage for low-carbon power producers. LSE procurement agreements should specify the type of power purchased, and the amount of emissions. In order to comply with the RPS, LSEs should know what type of power they are buying, and should specify that in their contracts. So the cap being defined this way will help LSEs with several of their needs. Their ability to contract over years and decades will limit their risk in the market, and reduce market volatility. When used alongside the RPS, the GHG cap will produce excellent results in a transition of the electricity sector to renewable energy.

Because there are a few LSEs (PG&E, Southern California Edison in particular) which are much larger than the others, there will need to be additional market rules pertaining to how the large actors behave in the market. For example, preventing the large actors from purchasing all permits, and then re-selling them to the smaller actors at inflated rates, or taking actions to manipulate the price of permits before or after a sale. Also, rules to protect new and inexperienced Community Choice Aggregators from market manipulation in the early years of trading.

The Dublin-based Foundation for the Economics of Sustainability (FEASTA) refers to "tradable personal emissions rights to each resident." When energy becomes scarce, its price will go up and this will increase the cost of everything everybody buys, including food.

Free allocation to companies had bad results in Europe: According to FEASTA, in September 2005, the Energy Research Centre of the Netherlands (ECN) released a report "CO2 Price Dynamics: The Implications of EU Emissions Trading for the Price of Electricity" which analyzed the effect that the free allocation of emission allowances had had on the price of electricity in Belgium, France, Germany and the Netherlands. It found that, although the emissions allowances had been issued to companies without charge, the fact that they could be traded and were in short supply gave them a market value and that a significant part of this market value was being passed to the consumer through higher power prices. The electricity producers had increased their profits as a result. The report concluded that the free allocation of emission allowances was a highly questionable policy option for a variety of reasons and suggested that auctioning allowances might be better.

Because California's population is growing rapidly, the individual per capita allocation would have to be calculated so that the overall cap would continue to diminish even as population grows. This could change in the annual disbursement based on census data, etc.

Thank you for including environmental justice concerns into the Report. As seen with Hurricane Katrina, environmental justice will be at the heart of climate change's impacts, and the programs we implement to mitigate climate change must also implement environmental justice measures. A per capita equity emission allocation to individuals would theoretically provide proportionally more income to low-income people. I strongly support involving low-income communities in the design and development of cap and trade and emission allowance allocation.

If the goal is Sustainable development, then a good metric is per capita equity of GHGs worldwide. Allocating emissions allowances to individuals would set up California to promote this model worldwide, and develop a mutually beneficial solution to global warming, allowing for human development, equity, a safe environment, and a healthy economy.

Sincerely,

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